



WEB COPY



C.R.P.No.5147 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2025

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.5147 of 2024 &
CMP.Nos.28860 & 28861 of 2024

T.Pattammal

.. Petitioner

Versus

1.K.Pandiyarajan
2.Kamalan builders,
Rep. by its Director,
Having office at Office No.14,
Aarthi Chamber, 189 Anna Salai,
Mount Road, Opp Arasu Cement,
Chennai, Tamil Nadu - 600 006 .. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 23.10.2024 in I.A.No.6 of 2024 in O.S.No.2953 of 2023 on the file of the learned XXIII Assistant City Civil Court, Chennai.

For Petitioner : Mr.Ravikumar
for Mr.M.Hariharan

ORDER



C.R.P.No.5147 of 2024

WEB COPY

This civil revision petition arises against the order passed by the XXIII Assistant City Civil Court, Chennai in I.A.No.6 of 2024 in O.S.No.2953 of 2023 dated 23.10.2024.

2. O.S.No.2953 of 2023 is a suit for the following reliefs:

“ for a permanent injunction restraining the defendants, their men, agents, servants or anybody else claiming through or under them in any manner from interfering in business in the name and style of “MKP PLASTICS & ESSENCE” carried out by the plaintiff in the suit schedule property.”

3. Summons were served on the defendants and the first defendant has also filed a detailed written statement.

4. On the basis of the pleadings, the parties were pushed to trial. Issues were framed and the evidence was also commenced.

5. Thereafter, the plaintiff moved an application under Order VI Rule 17 of the Code of Civil Procedure. According to the plaintiff, he is in occupation of the ground floor at No.6/14, Bajanaik Koil Street, K.M.Colony,



C.R.P.No.5147 of 2024

WEB COPY

Vadapalani, Chennai – 600 026. However, at the time of entering into the lease agreement, instead of denoting the area under occupation as the ground floor, the parties had mistakenly stated in the lease agreement that the plaintiff was in occupation of the first floor. On account of this fact, the mistake committed in the lease agreement also crept into the plaint. To rectify the same, the plaintiff filed an application for amendment seeking to delete the words, “first floor” and substitute the same with the words “ground floor”.

6. This application was opposed by the first defendant pleading that the cross examination had commenced and therefore, the wrath of the proviso appended to Order VI Rule 17 is attracted. In addition, the first defendant also pleaded that during the course of cross examination, it was pointed out that there is no cause of action for the plaintiff to present the suit and hence, the amendment application should not be allowed.

7. By the impugned order, the learned Trial Judge decided that the amendment application does not affect the right of the parties and in order



C.R.P.No.5147 of 2024

WEB COPY

to arrive at a just conclusion in the suit, he allowed the application. Hence, the revision.

8. When the matter came up for admission, I pointed out to Mr.Ravikumar, who represents Mr.M.Hariharan that when the relationship is admitted, it is not open to the first defendant to forcibly take possession of the property. Mr.Ravikumar contended that it is not the intention of the civil revision petitioner to take forcible possession.

9. That being the situation, I requested Mr.Ravikumar to take notice on the respondents. Notice has been served on the parties and the affidavit of service has also been filed. Neither the first respondent nor any counsel represents him in this revision.

10. After presentation of the revision, Mr.Ravikumar points out that the petitioner/landlord has presented a petition for eviction invoking Section 21(2)(a) and Section 23 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. The said petition has been numbered as RLTOP.No.25 of 2025 on the file of the XI Court of



C.R.P.No.5147 of 2024

WEB COPY

Small Causes, Chennai. He points out that the first date of hearing is 31.01.2025. He further invites my attention to the deposition of the first respondent on 04.07.2024 in O.S.No.2953 of 2024 to plead that the suit itself had been presented only in order to gain time and that, there is no cause of action for presentation of the suit.

11. I have carefully considered the submissions of Mr.Ravikumar and have gone through the records.

12. A reading of the plaint makes it clear that the plaintiff had entered into a lease agreement with the first defendant. He claims to be a tenant, who was paying the monthly rent of Rs.27,000/- and had given a sum of Rs.2,70,000/- towards security deposit.

13. A perusal of the written statement also shows that the first defendant, who is the owner of the premises, has accepted to the letting out of the property to the plaintiff on 30.01.2018 at the terms stated in the plaint. When the relationship of the landlord and tenant is admitted, the landlord is not entitled to forcibly take possession of the property. This



C.R.P.No.5147 of 2024

WEB COPY

position has been settled by the learned privy council at least 100 years ago in *The Midnapur Zamindari Co. Ltd., v. Naresh Narayan Roy, AIR 1924 PC 144.*

14. I can take note of the subsequent event of the landlord having filed a petition for eviction in RLTOP.No.25 of 2025. This shows that the petitioner is not taking law into her own hands but is proceeding in accordance with law for the purpose of taking possession of the property.

15. That being the situation, the continuation of the suit on the file of the XXIII Assistant City Civil Court at Chennai is otiose. Even if I were to set aside the order impugned, it would still not make a difference to the case, since letting out of the property on the ground floor is not in dispute.

16. As the landlord has initiated the proceedings for eviction, invoking the jurisdiction of this court under Section 24 of the Code of Civil Procedure read with Article 227 of the Constitution of India, the suit in O.S.No.2953 of 2023 is transferred to the file of this court. The said suit is disposed on the following terms:



C.R.P.No.5147 of 2024

WEB COPY

“The plaintiff will be entitled for the relief of injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the property in the ground floor of No.6/14, Bajanai Koil Street, K.M.Colony, Vadapalani, Chennai – 600 026 except otherwise in accordance with law.”

17. Learned XXIII Assistant City Civil Judge, Chennai is requested to record the operative portion of this order and draft a decree accordingly. It is open to the parties to agitate on the merits of the claims in the RLTOP proceedings.

18. This civil revision petition is ordered accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

23.01.2025

nl

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no

To



C.R.P.No.5147 of 2024

The XXIII Assistant City Civil Court, Chennai.

WEB COPY



WEB COPY



C.R.P.No.5147 of 2024

V.LAKSHMINARAYANAN, J.

nl

C.R.P.No.5147 of 2024

23.01.2025